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The Bush Torture Indictment by Nat Hentoff

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In his memoir, *Decision Points*, George W. Bush — explaining why he approved of “enhanced interrogation programs” and CIA secret prisons — assured us and the world that the Justice Department and the CIA guaranteed to him that these “complied with the Constitution and all applicable laws, including those that ban torture.”

I’m sure he had no doubts about the accuracy of those sources — and still believes them. He’s far from a cold-blooded person. George W. Bush ingenuously came into the presidency ignorant of CIA history under Director George Tenet and his successors’ extrajudicial practices. Worse yet, as he displayed while governor of Texas, his knowledge of the Constitution — due process, for example — was at best superficial.

By necessity, relying on his high-level advisers, such as Dick Cheney, Donald Rumsfeld and a young professor on leave from teaching constitutional law — John Yoo — President Bush, along with those advisers, committed war crimes under U.S. law and international treaties we’ve signed.

So too, as I’ve reported, has President Barack Obama, even extending and deepening some of those indelible crimes. In this country, those involved have been immune from any consequences of this fundamental inhumanity.

Last month, George W. Bush canceled an appearance at a charity gala in Switzerland because the Center for Constitutional Rights (CCR) had filed in Geneva two criminal complaints by victims of U.S. torture. If Bush came, Switzerland — a signer of the international Covenant Against Torture — would have had to arrest him.

I have the CCR’s lengthy “George Bush — Preliminary Indictment for Torture.” In this and intermittent future columns, I’ll disclose excerpts. Neither he nor his accomplices can permanently escape history, nor can this nation.

On Sept. 11, 2001, George W. Bush “authorized the CIA to capture suspected terrorists and members of al-Qaida and to create detention facilities outside the United States where suspects can be held and interrogated.”

This “legalized” the rendition of terrorism suspects to countries outside our laws, where a number were tortured! The indictment adds: “The International Committee of the Red Cross (ICRC) made repeated (unsuccessful) requests to the United States to grant it

access ... including to specific detainees ... held by the CIA in secret detention sites.” (The “black sites.”) But a few survivors were later interviewed elsewhere.

In September 2006, the ICRC described those held by the CIA as “missing persons.” Although the identities of a number of them have since been resoundingly revealed, many more in the secret prisons remain “ghost prisoners” whose families have still not heard from — or about — them. One of the “high-value” detainees, Abu Zabaydah, was videotaped by the CIA being waterboarded 83 times. He later told the ICRC:

“I was strapped down very tightly with belts. A black cloth was then placed over my face, and the interrogators used a mineral water bottle to pour water on the cloth so that I could not breathe.” Then, “the water was poured on for a longer time. I thought I was going to die. I lost control of my urine. Since then I still lose control of my urine under stress.”

The CIA destroyed the videotapes in 2005. But not Zabaydah. Another very high-value detainee, Khalid Sheikh Mohammed, was waterboarded 183 times. Other “enhanced interrogation techniques” used on him included “threats to kill his children and the deprivation of sleep for 180 hours.”

Continuing, the “Indictment for Torture” documents that “in March 2008, Bush vetoed legislation that would have banned the CIA from using ‘enhanced interrogation’ techniques, including waterboarding, saying it ‘would take away one of the most valuable tools on the war on terror.’”

Also cited is a memo (August 2000) signed by Assistant Attorney General Jay Bybee (now a judge on the 9th Circuit Court of Appeals) giving the CIA its first “legal” approval for “confining detainees in a dark box for up to 18 hours at a time and possibly with an insect placed in the confinement box; up to 11 days of sleep deprivation.”

Could there be prosecutions for these war crimes? During a Sept. 6, 2006, speech, Bush said he wouldn’t allow this to happen to anyone “simply for doing their jobs in a thorough and professional way.”

And what about Congress? From a Feb. 26, 2010, *Los Angeles Times* report: “The House approved an intelligence agency bill Friday after Democratic leaders hastily removed a provision that would have imposed prison sentences for personnel ‘using cruel, inhuman and degrading’ interrogation techniques.”

Did the Republicans object?

What if Republicans control both houses of Congress in 2012? A year ago, the *Los Angeles Times* told why that attempt at accountability for torture was removed: “Republicans strongly protested the (anti-torture) measure when the bill came to the floor Thursday, forcing the Democrats to pull the bill to avoid an unwanted debate on torture.”

From CCR's Preliminary Indictment for Torture: "As president of the United States and commander in chief of U.S. Armed Forces, Bush bears individual and command responsibility for the acts of his subordinates which he ordered, authorized, condoned or otherwise aided or abetted, and the violations committed by his subordinates which he failed to prevent or punish."

In Switzerland, Bush also "bears criminal responsibility for the torture he personally authorized and supervised through the CIA torture program." Since Bush canceled his trip, he will not be prosecuted in Switzerland.

In any case, here at home, he is wholly immune. Also here, hardly anyone seems to care at all about the disappeared "ghost prisoners."

Suppose, in a nation of laws, it was a family member, friend or other loved one who was among them, being tortured even as you read this.

Don't they deserve to be treated as human beings, too?

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